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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. 1997 LAMBORGHINI DIABLO, VIN
ZA9RU37P6VLA12636,
2. 2006 PORSCHE CAYENNE TURBO, VIN
WP1AC29P96LA91296,
3. \$8,692.42 IN FUNDS SEIZED FROM
COMMERCE BANK ACCOUNT HELD
IN THE NAME OF PSA, LLC.,
4. \$6,314.76 IN FUNDS SEIZED FROM
COMMERCE BANK ACCOUNT HELD
IN THE NAME OF PHARMACY USA,
LLC, AND
5. \$1,076,636.89 IN FUNDS SEIZED FROM
TD AMERITRADE ACCOUNT HELD IN
NAME OF CHRISTOPHER NAPOLI,

Defendants.

Case No. C 07-3120 RMW

**PLAINTIFF'S REQUEST FOR DISMISSAL
WITHOUT PREJUDICE AND
~~PROPOSED~~
ORDER**

Pursuant to Rule 41(a)(2) of Federal Rules of Civil Procedure, plaintiff hereby submits this request to dismiss the above-captioned action without prejudice. Plaintiff contends that dismissal without prejudice of this action is appropriate because the property subject to forfeiture in this civil action is now subject to forfeiture in a related criminal action captioned *United States v. Christopher Napoli, et al*, CR 10-0642 RS, currently pending in United States District Court in San Francisco. Upon stipulation of the parties, the civil action had been stayed pending resolution of the underlying criminal investigation of Napoli and others related to the unlawful distribution of controlled substances over the internet and for related money laundering violations. That investigation has now resulted in the above-referenced criminal indictment and includes the property subject to forfeiture in this civil forfeiture action. Although claimant Christopher Napoli has filed an Answer in the civil action seeking return of the property, he can adjudicate those claims if he successfully defends the criminal action. Plaintiff thus requests that this matter be dismissed without prejudice and that each party bear their own costs for this action.

DATED: 9/1/10

Respectfully submitted,

MELINDA HAAG
United States Attorney

STEPHANIE M. HINDS
Assistant United States Attorney

PROPOSED ORDER

Having reviewed plaintiff's request for dismissal without prejudice, any opposition filed thereto if any, and good cause appearing, IT IS HEREBY ORDERED that the above-captioned action without prejudice. The Court further orders that each party bears its own costs in this action.

IT IS SO ORDERED.

Dated: 9/13/10

Ronald M. Whyte
RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE